

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6503 of 1987

For Approval and Signature:

Hon'ble MR.JUSTICE D.H.WAGHELA Sd/-

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge? : NO
1 to 5 : No

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Versus

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Appearance:

MR VJ DESAI for Petitioner

NOTICE SERVED for Respondent No. 1

MR HARDIK C RAWAL for Respondent No. 3

CORAM : MR.JUSTICE D.H.WAGHELA

Date of decision: 24/11/1999

ORAL JUDGEMENT

Heard the learned Counsels appearing for the parties.

2. The petitioner is a conductor serving under the respondent No.3 Gujarat Road Transport Corporation. After issuing a chargesheet, departmental proceedings

were initiated against him and a complaint for prosecution was also filed. After the police investigation, the police has filed the chargesheet against the petitioner in the Court of the Judicial Magistrate, First Class at Kaira and Criminal Case No.346 of 1987 has been registered on 10.6.1987. It is submitted on behalf of the petitioner that both the cases are based on the same allegations. The petitioner has prayed for stay of further proceedings in the departmental inquiry till the criminal proceedings are over.

3. While admitting the petition, ad-interim relief was granted and the ad-interim relief was continued thereafter with a direction to the respondent No.2 to move the criminal court at Kaira to expedite the hearing of the criminal case against the petitioner.

4. It is now submitted that the respondents have no information about the stage or the result of the criminal proceedings instituted against the petitioner. On the other hand, the departmental proceedings are also kept in abeyance in compliance of the interim order continued in this petition.

5. The learned Counsels on both the sides have fairly conceded and relied upon the legal position as enunciated in CAPT. M. PAUL ANTHONY v. BHARAT GOLD MINES LTD. [AIR 1999 SC page 1416] wherein Their Lordships of the Supreme Court have observed as under:

"The conclusions which are deducible from various decisions of this Court referred to above are:

- (i) Departmental proceedings and proceedings in a criminal case can proceed simultaneously as there is no bar in their being conducted simultaneously, though separately.
- (ii) If the departmental proceedings and the criminal case are based on identical and similar set of facts and the charge in the criminal case against the delinquent employee is of a grave nature which involves complicated questions of law and fact, it would be desirable to stay the departmental proceedings till the conclusion of the criminal case.
- (iii) Whether the nature of a charge in a criminal case is grave and whether complicated questions of fact and law are involved in that

case, will depend upon the nature of offence, the nature of the case launched against the employee on the basis of evidence and material collected against him during investigation or as reflected in the charge sheet.

(iv) The factors at (ii) and (iii) above cannot be considered in isolation to stay the departmental proceedings but due regard has to be given to the fact that the departmental proceedings cannot be unduly delayed.

(v) If the criminal case does not proceed or its disposal is being unduly delayed, the departmental proceedings, even if they were stayed on account of the pendency of the criminal case, can be resumed and proceeded with so as to conclude them at an early date, so that if the employee is found not guilty his honour may be vindicated and in case he is found guilty, administration may get rid of him at the earliest".

6. In view of the clear legal position as summarised by the Hon'ble Supreme Court, it would be in the interest of justice that after a long lapse of about 13 years, the departmental proceedings should be allowed to proceed further. Therefore, the petition is rejected. Rule is discharged and the interim relief is vacated with no order as to costs.

Sd/-

(KMG Thilake)

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